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or that his title was perfect, knowing the fact to be otherwise, and a purchaser found by the broker had entered into a contract of purchase at the stipulated price, conditioned on the state of the title being as described, then doubtless the broker would have been entitled to his commissions, although the purchaser afterward repudiated the purchase because of defect of title.

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PAUPER CRIMINALS—ASSIGNMENT OF COUNSEL—RIGHT OF PRISONER TO SELECT.—In *People v. Fuller* (N. Y. Sup.), 71 N. Y. Supp. 487, the interesting question arose, under the New York statute authorizing the court to assign counsel to pauper criminals, whose compensation is to be paid by the county, whether the accused might have the selection of such counsel, willing to serve, or whether the assignment was wholly in the discretion of the court. It was *Held*, That the criminal had no voice in the selection, and the court might disregard his preference, and make its own selection of counsel. That the court's ruling was founded in good reason appears from the following extract from the opinion:

"This change in the law has not unreasonably caused the assignment in such cases to be eagerly sought for, and, in some instances, through means not above reproach. It seldom happens that a defendant is arraigned, charged with murder in its first degree, without many applications for such assignment being made to the judge before whom the arraignment is had, by counsel claiming previous retainer or especial familiarity with the case, or claiming to represent the wishes of the accused or his family, or some other equally cogent reason. It has, indeed, been a matter of common rumor that zealous 'counsel' have sometimes offered to divide their prospective fees with the family and friends of the accused, in consideration of their inducing the accused to ask the court for their assignment as counsel. The accused, in prison, and with a relatively limited acquaintance as to the capability and suitability of counsel, and oppressed, as he is, with the gravity of his situation, is often but poorly able to choose or recommend. It is the plain duty of the court to protect the defendant from such improper influences; and to permit him, under these circumstances, to suggest counsel to be assigned by the court, and to be paid by the State, is to open the door to such grave abuses that I am unwilling to encourage it. There is doubt whether a defendant able to retain and pay his own counsel will ever do so if he knows that upon his application the court will assign, and the State pay them. It follows, therefore, that if the court is to assign counsel, it should do so free from any prompting or suggestion whatsoever either by the defendant or by counsel desiring such assignment. The defendant is wholly free to select his own counsel, but if the court is to assign, and the State is to pay, then the independent selection by the court, by removing the temptation, will prevent the improper solicitation of such assignments by means both despicable and unprofessional, and will, at the same time, permit the assignment in proper cases of counsel who are eminent, able, and honorable. If, in an isolated case, this rule should possibly work hardship, it is clear to my mind that it will, in the end, result to the great advantage of the accused, the community, and the bar. I may add that no reflection is intended nor entertained as to the two counsel whom I asked to assign in this particular case, and this memorandum is written that they may know why I deny this application, and that the bar may know my views for their future guidance."